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IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1944.

No. 560.

STATE OF NORTH CAROLINA, NORTH CAROLINA UTILITIES  
COMMISSION, ET AL., *Appellants*,

v.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE  
COMMISSION, ET AL., *Appellees*.

On Appeal from the District Court of the United States for  
the Eastern District of North Carolina, Raleigh Division.

APPENDICES A, B, C, AND D TO BRIEF ON BEHALF  
OF ABERDEEN AND ROCKFISH RAILROAD CO.,  
ET AL., APPELLEES.

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Appellees.*



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\_\_\_\_\_  
**APPENDIX A.**

**CERTAIN SECTIONS OF THE INTERSTATE  
COMMERCE ACT, PART I:**

U. S. Code, Title 49, Section 13(3):

Whenever in any investigation under the provisions of  
this part, or in any investigation instituted upon petition of  
the carrier concerned, which petition is hereby authorized  
to be filed, there shall be brought in issue any rate, fare,

charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this part or part III with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearing with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this part or part III.

U. S. Code, Title 49, Section 13(4):

Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and prac-



tices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

U. S. Code, Title 49, Section 15(1):

That whenever, after full hearing, upon a complaint made as provided in section 13 of this part, or after full hearing under an order for investigation and hearing made by the Commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the Commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this part for the transportation of persons or property as defined in the first section of this part, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this part, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this part, the Commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged, and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the Commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.



U. S. Code, Title 49, Section 15a(2):

In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service.

U. S. Code, Title 49, notes preceding Section 1:

It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions;—all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy.

## APPENDIX B.

### CHRONOLOGICAL HISTORY OF THE CASE.

(Barry, Exhibit 1, R. 295-300.)

February 28, 1936, Docket 26550, *Passenger Fares and Surcharges*, 214 I. C. C. 174, I. C. C. condemned 3.6 cents per mile in coaches and sleepers and chair cars and struck 50 per cent surcharge on sleeping and chair-car accommodations which had inured to the railroads. I. C. C. prescribed as reasonable throughout the United States for interstate application 2 cents in coaches and 3 cents in sleepers and chair cars.

November 15, 1937, the 2-cent and 3-cent rates of fare became effective interstate and intrastate including North Carolina, Alabama, Kentucky, and Tennessee.

December 1, 1933, to November 14, 1937, some Southern lines experimented with fares slightly less than those prescribed interstate in Docket 26550. They finally got down to 1.5 cents in coaches, although such roads as Norfolk & Western, Chesapeake & Ohio, Illinois Central, St. Louis-San Francisco, Gulf, Mobile & Ohio, and some short lines, did not reduce their rates, except only to the extent of meeting competition of the 1.5-cent fares in a limited number of instances.

January 15, 1939, those Southern railroads which had had the 1.5-cent coach fares went back to them.

January 21, 1942, I. C. C. in *Ex Parte 148* sanctioned 10 per cent increase whereby 2 cents became 2.2 cents and 3 cents became 3.3 cents. It has affirmed that in five reports:

March 2, 1942, 248 I. C. C. 545.

April 6, 1943, 255 I. C. C. 357.

November 8, 1943, 256 I. C. C. 502.

May 12, 1944, 258 I. C. C. 455.

December 12, 1944, 259 I. C. C. 159.

February 10, 1942, these 10 per cent increases became effective interstate and intrastate with certain exceptions. That raised 1.5 cents to 1.65 cents and 2 cents to 2.2 cents. Texas refused to increase 3 cents to 3.3 cents and Rhode Island refused increase in its commutation fares. These charges in both instances were brought up to the interstate levels by thirteenth-section proceedings: 253 I. C. C. 723 and 253 I. C. C. 383, respectively.

July 14, 1942, Southern lines petitioned I. C. C. to modify its order in its Docket 26550 to increase 1.65 cents to 2.2 cents.

August 1, 1942, I. C. C. granted that petition.

October 1, 1942, the increase from 1.65 cents to 2.2 cents became effective on the lines of these several Southern territory lines, interstate and intrastate, except intrastate in North Carolina, Alabama, Tennessee, and Kentucky.

October 12, 1942, railroads petitioned North Carolina Commission to increase 1.65 cents to 2.2 cents.

July 8, 1943, North Carolina, by Order No. 2789, denied these railroads' petition in effect saying it would defer action until it could file petition with I. C. C. seeking an investigation of civilian coach fares to and from the State of North Carolina.

July 8, 1943, North Carolina, Alabama, and OPA filed their petitions with I. C. C. to investigate passenger fares.

July 22, 1943, railroads filed thirteenth-section petition with I. C. C. to investigate North Carolina's lower rates.

October 11, 1943, I. C. C. denied petitions of North Carolina, Alabama, and OPA to investigate passenger fares.

October 13, 1943, I. C. C. instituted a thirteenth-section proceeding, No. 29036, into North Carolina rates.

December 28-29, 1943, thirteenth-section proceeding was heard at Raleigh. Thereafter it was briefed February 14, 1944, and orally argued February 18, 1944, before full bench of I. C. C.

March 25, 1944, I. C. C. report, without order, was issued (258 I. C. C. 133).

April 26, 1944, North Carolina interests petitioned I. C. C. for reconsideration of its report of March 25, 1944.

May 8, 1944, I. C. C. denied North Carolina's petition for reconsideration.

May 8, 1944, I. C. C.'s order (corrected) was issued to remove prejudice and discrimination found to exist, account of the lower intrastate fares, by increasing them to the interstate level which was found to be reasonable.

June 5, 1944, North Carolina sued in the District Court of the United States for the Eastern District of North Carolina, Raleigh Division, to enjoin, annul, and set aside the order of I. C. C. of May 8, 1944.

July 20, 1944, statutory three-judge District Court upon its opinion, findings of fact, and conclusions of law, denied the injunction sought and dismissed the suit of the North Carolina interests.

## APPENDIX C.

### CHRONOLOGICAL HISTORY OF FEDERAL CONSIDERATION OF PASSENGER FARES.

June 10, 1918, Director General of Railroads increased the 2.5-cent basic passenger fare that had been in effect since 1908 to 3 cents.

August 26, 1920, under *Ex Parte 74, Increased Rates, 1920*, 58 I. C. C. 220, 242, in addition to the freight-rate increases therein authorized, the 3-cent fare was increased 20 per cent making it 3.6 cents per mile for travel in coaches and sleeping and parlor cars; also a surcharge of 50 per cent of the charge for space occupied in sleeping or parlor cars was provided to accrue to the railroads.

July 1, 1922, under *Reduced Rates, 1922*, 68 I. C. C. 676, 727, 734-737, substantial reductions were made in the freight-rate increases authorized in *Ex Parte 74*. The passenger fares increased in *Ex Parte 74* were not reduced.

November 15, 1937, fares of 2 cents in coaches and 3 cents in sleeping or chair cars were made effective under Docket 26550, *Passenger Fares and Surcharges, (1936)*, 214 I. C. C. 174, wherein the 3.6 cents per mile in all classes of equipment was reduced by the I. C. C. and the surcharge of 50 per cent of sleeping or chair car space occupied was eliminated.

February 10, 1942, fares of 2 cents became 2.2 cents and 3 cents became 3.3 cents, and have been continued (though freight increases have been suspended) under I. C. C.'s orders in *Ex Parte 148, Increased Railway Rates, Fares, and Charges, 1942*, as follows:

January 21, 1942}	248 I.C.C. 545
March 2, 1942}	
April 6, 1943	255 I.C.C. 357
November 8, 1943	256 I.C.C. 502
May 12, 1944	258 I.C.C. 455
December 12, 1944	259 I.C.C. 159

I.C.C., by its orders in thirteenth-section proceedings, incident to *Ex Parte 148* has ordered:

Intrastate commutation fares in Rhode Island increased 10 per cent, Docket 28827, *Rhode Island Commutation Fares*, 253 I. C. C. 383, September 8, 1942.

Intrastate fare of 3 cents in Texas increased to 3.3 cents, Docket 28846, *Increases in Texas Rates, Fares, and Charges*, 253 I. C. C. 723, December 18, 1942.

Intrastate coach fares in North Carolina increased from 1.65 cents to 2.2 cents in Docket 29036, *North Carolina Intrastate Coach Fares*, 258 I. C. C. 133, March 25, 1944. (The report and order embraced four thirteenth-section proceedings; not only North Carolina, but Alabama, Kentucky, and Tennessee as well. Hence, the title of the report happened to become "Alabama Intrastate Fares" embracing the other three cases.)



**APPENDIX D.****FINDINGS OF THE INTERSTATE COMMERCE  
COMMISSION****AND****EVIDENCE FROM THE RECORD IN THE NORTH  
CAROLINA CASE, I. C. C. DOCKET 29036, SUP-  
PORTING SUCH FINDINGS.**

**FINDING, 258 I. C. C., at 146:**

*All trains are available to and are used by both interstate and intrastate passengers and services accorded both classes of passengers are substantially the same. The illustrations given are typical. (R. 86).*

**SUPPORTING EVIDENCE:**

In the operation of trains into, out of, and across North Carolina no distinction is made with respect to interstate and intrastate passengers. Both travel in the same coaches. In the physical operation of trains in North Carolina there are no trains which are operated solely for intrastate travel. (Blackwell, R. 154, 155; Barry, Exhibit 1, R. 301.)

There is a substantial travel of passengers between all points shown on Exhibits 2 (R. 306-308) and 3 (R. 309-311) (Barry, R. 172).

No distinction is made in the handling of interstate and intrastate passengers into and out of the State of North Carolina or within the State of North Carolina (Barry, R. 173).

Passenger trains operated by the Seaboard in North Carolina are used both for interstate and intrastate service. Interstate and intrastate passengers commonly ride on the same trains. There is no difference in the equipment of through trains. (Makinson, R. 236.)

Both interstate and intrastate passengers in North Carolina are handled under the same conditions on the same trains (N. C. Utilities Comsn., Hunter, R. 254).



"In the very nature of things the fares for and the transportation of interstate and intrastate persons is generally inextricably bound together." (Order No. 2789 of N. C. Utilities Com., dated July 8, 1943, R. 140)

**FINDING, 258 I. C. C. at 145-146:**

*Interstate and intrastate passengers are carried on the same trains and generally in the same cars, and interstate passengers have to pay higher fares than intrastate ones for corresponding distances (R. 85).*

**FINDING, p. 146:**

*Charlotte, N. C. to Spartanburg, S. C. 75 miles. fare \$1.65.*

*Charlotte, N. C. to Greensboro, N. C. 94 miles. fare 1.55 (R. 85).*

**SUPPORTING EVIDENCE:**

Passengers are actually traveling from a point without the State of North Carolina to a point within the state, and are also traveling from a point within the state to another point within the state (Buechler, Exhibit 4, R. 312, 182, 183).

Passenger trains operating in the State of North Carolina carry both intrastate and interstate passengers who frequently ride on the same trains and in the same coaches and there is no reason which would justify the maintenance of a one-way fare of only 1.65 cents per mile within the State of North Carolina when a passenger to or from points within the state or passing through the state is required to pay 2.2 cents a mile (Barry, Exhibit 1, R. 301).

Examples from Exhibit 3 (R. 309-311) of fares paid by intrastate passengers contrasted with those paid by interstate passengers for approximately the same distance, which illustrate the discrimination against interstate passengers:

	Distance Miles	One- Way Coach Fare	Difference in Cost in Favor Intrastate Passenger
Asheville, N. C. to Athens, Tenn. .... (2.2¢)	184	\$4.11	
Asheville, N. C. to Greensboro, N. C. .... (1.65¢)	191	3.20	\$0.91
Asheville, N. C. to Atlanta, Ga. .... (2.2¢)	254	5.61	
Asheville, N. C. to Durham, N. C. .... (1.65¢)	246	4.20	1.41
Asheville, N. C. to Chattanooga, Tenn. ... (2.2¢)	240	5.32	
Asheville, N. C. to Durham, N. C. .... (1.65¢)	246	4.20	1.12
Asheville, N. C. to Charleston, S. C. .... (2.2¢)	293	6.49	
Asheville, N. C. to Henderson, N. C. .... (1.65¢)	287	4.90	1.59
Asheville, N. C. to Nashville, Tenn. .... (2.2¢)	346	7.70	
Asheville, N. C. to Kinston, N. C. .... (1.65¢)	347	5.80	1.90
Charlotte, N. C. to Danville, Va. .... (2.2¢)	142	3.15	
Charlotte, N. C. to Ridgecrest, N. C. .... (1.65¢)	142	2.40	0.75
Charlotte, N. C. to Easley, S. C. .... (2.2¢)	205	4.55	
Charlotte, N. C. to Selma, N. C. .... (1.65¢)	203	3.20	1.35
Durham, N. C. to Clemson, S. C. .... (2.2¢)	285	6.38	
Durham, N. C. to Hot Springs, N. C. .... (1.65¢)	284	4.85	1.53
Greensboro, N. C. to Easley, S. C. .... (2.2¢)	212	4.73	
Greensboro, N. C. to Wilmington, N. C. ... (1.65¢)	213	3.60	1.13
Salisbury, N. C. to Clemson, S. C. .... (2.2¢)	180	4.04	
Salisbury, N. C. to Hot Springs, N. C. ... (1.65¢)	179	3.05	0.99
Winston-Salem, N. C. to Camden, S. C. ... (2.2¢)	172	3.81	
Winston-Salem, N. C. to Asheville, N. C. (1.65¢)	171	2.85	0.96

(Barry, Exhibit 3, R. 309-311, 172)

Examples from Exhibit 4 (R. 312) of the number of tickets actually sold by Southern Railway ticket agents during the month of November, 1943, to and from the points listed in the exhibit:

	Miles	No. of tickets
Danville, Va. to Greensboro, N. C.	48	151
vs.		
Charlotte, N. C. to Greensboro, N. C.	94	473
Columbia, S. C. to Charlotte, N. C.	108	319
vs.		
Greensboro, N. C. to Charlotte, N. C.	94	362
Charlotte, N. C. to Greensboro, N. C.	94	472
vs.		
Charlotte, N. C. to Spartanburg, S. C.	75	252

(Buechler, Exhibit 4, R. 312)

Exhibit 4 shows that persons are actually traveling between the points listed, some paying intrastate fares and some paying interstate fares (Buechler, R. 182, 183).

The E. F. Craven Company, Greensboro, N. C., has six salesmen traveling within the State of North Carolina and they are now traveling more by train than they did a few years ago (Russell, R. 266).

In describing the coach service Mr. Russell, speaking for the Craven Co. and the North Carolina membership of 3600 in the Travelers Protective Association, used only one trip; Raleigh, N. C., to Greensboro, N. C., thence to Greenville, S. C., and return to Greensboro, N. C. (R. 266, 267).

An investigation developed that business concerns located outside of the State of North Carolina ship their products into that state in competition with those located within the state. Salesmen and sales supervisors for these interstate concerns travel by train into North Carolina, and pay the interstate fare. (Haynes, R. 191, 192.)

Among the manufacturing concerns which do business in North Carolina in competition with similar concerns within that state are fertilizer, scrap dealers, glass and paints, flour and feed mills, creosoting plants, tobacco, pulpwood, paper container companies, shoe manufacturers, log and lumber, foundry and machine, cotton mill supplies, electric supply, fire extinguisher, plumbing fixtures, belting, and brick and tile (Haynes, R. 191-195, 199-200).

Exhibit 7 (R. 314) shows two instances where interstate passengers going to the same destination as intrastate passengers and traveling approximately the same distance pay a higher fare. Two passengers, one from Mullins, S. C., going to Hallsboro, N. C., about 40 miles, pays 92 cents, and an intrastate passenger from Wilmington to Hallsboro for approximately the same distance pays 72 cents. Trains operate from Mullins to Hallsboro and also from Wilmington to Hallsboro. Passengers actually ride on those trains. (Lynch, R. 187.)

Interstate and intrastate passengers ride in the same train, and may sit in the same coach. An intrastate pas-

senger from Weldon, N. C., to Smithfield, N. C., pays \$1.45 and an interstate passenger from Fayetteville, N. C., to Florence, S. C., pays \$1.83. (Lynch, Exhibit 7, R. 314, 188.)

Passengers traveling in the same train under the same conditions should not be charged different fares (Lynch, R. 188).

The lower fares intrastate in North Carolina permit two passengers on the same train to pay different rates per mile for that part of the trip in North Carolina. An interstate passenger from Henderson, N. C., to Chester, S. C., pays for that part of his trip from Henderson to Monroe, N. C., \$1.04, more than the intrastate passenger between the same points. A person living in Roanoke Rapids, N. C., who desires to go from that point to Norfolk, Va., pays a coach fare of \$1.83, whereas if he went to Raleigh, N. C., he pays \$1.55 for a greater distance. (Makinson Exhibit 13, R. 383, 384, 238.)

"On Seaboard Railway train No. 18, of November 16, 1943, there were two passengers on the train, and I have the tickets that each one of them surrendered. One is an intrastate ticket from Norlina to Littleton, North Carolina. The other is an interstate ticket from Norlina to Portsmouth, Virginia. One man paid 1.65 a mile, and the other paid 2.2 cents a mile. (Makinson, R. 239.)

• • • • •  
 "The Witness: Same train, starting in North Carolina, ending up in Virginia. (R. 239)

"Here is another, two more tickets, train No. 9, starting on November 17th, ending November 18, 1943, two passengers on that train. One had a ticket from Raleigh to Hamlet, which was intrastate. He paid 1.65 cents a mile for his ticket. Another passenger in the same coach had a ticket from Raleigh to Athens, Georgia, for which he paid \$8.47, which was the rate 2.2 cents a mile plus the tax." (Makinson, R. 239.)

FINDING, 258 I. C. C. at 146:

*Differences between fares over interstate and intrastate routes between points in same state (R. 85).*

SUPPORTING EVIDENCE:

The intrastate fare of 1.65 cents per mile in North Carolina results in a different fare via one route than via another route between the same points, the other route being an interstate route between two points within the State of North Carolina. There is nothing to prevent passengers from traveling over the intrastate route, and they do it. (Lynch, Exhibit 6, R. 313, 186.)

There are nine through passenger trains operated by Southern Railway north of Charlotte in each direction in North Carolina, or eighteen in all. These trains run through the State of North Carolina and they each make six or seven stops within the state. (Barry, R. 174.)

The "streamliners" on Southern Railway make six stops within the State of North Carolina. They pick up passengers in North Carolina and carry them to another point in North Carolina. (Barry, R. 176, 177.)

Streamliners are generally known as the coach trains on which there are reserved seats; when they are sold to capacity no more tickets are sold (Barry, R. 289).

The conditions obtaining in North Carolina with respect to crowded condition of trains are no different from those in other states (Barry, R. 286-289).

Operating conditions in North Carolina, except in the mountainous sections, are similar on all roads (Blackwell, R. 157, 161).

FINDING, 258 I. C. C. at 147:

*Intrastate fares may be used to defeat and break down the interstate fares and thereby reduce the revenues on interstate traffic (R. 86).*

*Passengers destined to points outside of the respective states may now purchase intrastate tickets to points on or*



near the state line and either rebuy tickets or pay cash for the remainder of the journey (R. 86).

Respondents are convinced that this practice is common. That their elimination would have an important effect upon additional revenues which they would receive if the intrastate fares were on the same level as the interstate ones. (R. 87.)

#### SUPPORTING EVIDENCE:

There is opportunity for persons to defeat the through interstate fares by buying to a point within the State of North Carolina and then rebuying. Illustrations are shown on Exhibit 2 (R. 306-308). Persons actually travel between the points shown on Exhibit 2. (Barry, R. 172.)

Examples of possible reductions of interstate fares by purchasing to the point nearest the state line and rebuying therefrom to interstate destinations:

Asheville, N. C. to Washington, D. C. ....	(2.2¢)		\$10.49
Asheville, N. C. to Reidsville, N. C. ....	(1.65¢)	\$3.65	
Reidsville, N. C. to Washington, D. C. ....	(2.2¢)	5.76	9.41
Saving .....			1.08
Charlotte, N. C. to Richmond, Va. ....	(2.2¢)		6.23
Charlotte, N. C. to Reidsville, N. C. ....	(1.65¢)	2.00	
Reidsville, N. C. to Richmond, Va. ....	(2.2¢)	3.63	5.63
Saving .....			0.60
Raleigh, N. C. to Knoxville, Tenn. ....	(2.2¢)		8.91
Raleigh, N. C. to Hot Springs, N. C. ....	(1.65¢)	5.25	
Hot Springs, N. C. to Knoxville, Tenn. ....	(2.2¢)	2.05	7.30
Saving .....			1.61
Greensboro, N. C. to Nashville, Tenn. ....	(2.2¢)		11.92
Greensboro, N. C. to Hot Springs, N. C. ....	(1.65¢)	3.85	
Hot Springs, N. C. to Nashville, Tenn. ....	(2.2¢)	6.86	10.71
Saving .....			1.21
Salisbury, N. C. to Louisville, Ky. ....	(2.2¢)		12.14
Salisbury, N. C. to Hot Springs, N. C. ....	(1.65¢)	3.05	
Hot Springs, N. C. to Louisville, Ky. ....	(2.2¢)	8.18	11.23
Saving .....			0.91
Durham, N. C. to Chattanooga, Tenn. ....	(2.2¢)		10.78
Durham, N. C. to Hot Springs, N. C. ....	(1.65¢)	4.85	
Hot Springs, N. C. to Chattanooga, Tenn. ....	(2.2¢)	4.47	9.32
Saving .....			1.46

Goldsboro, N. C. to Nashville, Tenn. .... (2.2¢)		14.78
Goldsboro, N. C. to Hot Springs, N. C. .... (1.65¢)	6.00	
Hot Springs, N. C. to Nashville, Tenn. .... (2.2¢)	6.86	12.86
Saving.....		1.92
Winston-Salem, N. C. to Memphis, Tenn. .... (2.2¢)		16.02
Winston-Salem, N. C. to Hot Springs, N. C. .... (1.65¢)	3.50	
Hot Springs, N. C. to Memphis, Tenn. .... (2.2¢)	11.40	14.90
Saving.....		1.12
(Barry, -Exhibit 2, R. 306, -172)		

Present passenger service in North Carolina could not be furnished to people of that state if it had nothing to rely on but purely intrastate traffic (Barry, R. 175).

It is possible for passengers to defeat the through rate by buying a ticket to or from a point in North Carolina and then rebuy. From Richmond, Va., to Wilmington, N. C., the one-way interstate fare is \$5.43. A passenger may buy a ticket from Richmond to Rocky Mount, N. C., and then buy a ticket from Rocky Mount to Wilmington, at a total cost of \$4.78, thereby saving 65 cents. Similarly a passenger from Norfolk, Va., to Fayetteville, N. C., pays \$4.58. He may buy to Rocky Mount and then rebuy at a total cost of \$4.12, saving 46 cents. There is nothing to prevent the passenger from getting off at Rocky Mount and buying the ticket. He has about an hour in which to do it. (Lynch, Exhibit 5, R. 313, 185.)

Passengers defeat the through interstate fares by buying and rebuying. Exhibit 13 indicates how the lower intrastate fares in North Carolina make it possible for passengers to beat the fare in rebuying. From Raleigh to Atlanta the through interstate fare is \$9.31, which can be cut 80 cents by a passenger buying to Monroe, which is a division point, and rebuying. (Makinson, Exhibit 13, R. 383, 238, 239.)

#### FINDING, 258 I. C. C. at 147:

*An increase in the intrastate fares to the interstate level under existing conditions will not result in any important loss of traffic to other forms of transportation and will pro-*



*duce increased revenue substantially equivalent to those estimated by them (R. 87).*

#### **SUPPORTING EVIDENCE:**

In the event the present 1.65-cent fare within North Carolina is increased to 2.2 cents per mile it would not have any effect on the traveling public. The increase would not divert passenger travel to busses or other means of transportation. (Barry, R. 171.)

If the fares are increased in North Carolina it would not keep anybody off the trains (Makinson, R. 243).

The fair average distance of a coach haul within the State of North Carolina is approximately thirty miles (Barry, R. 170).

**FINDINGS, 258 I. C. C. at 147, 154, 155:**

*Additional revenue per annum respondents would have received if 2.2 cents were in effect intrastate (R. 86):*

<i>Alabama</i>	<i>\$750,000.</i>
<i>Kentucky</i>	<i>— 526,000.</i>
<i>North Carolina</i>	<i>558,000.</i>
<i>Tennessee</i>	<i>556,000.</i>
	<hr/>
	<i>\$2,390,000.</i>

#### **SUPPORTING EVIDENCE:**

The actual revenue loss of the thirteen railroads operating in North Carolina by reason of the refusal of the North Carolina Commission to permit the fare of 1.65 cents per mile to be increased to 2.2 cents per mile between December 1, 1942, and September 30, 1943, was \$465,578. On basis of a year, the loss would amount to \$558,694.

For the twelve months ended February 28, 1943, the amount would have been \$432,150 and for the twelve months ended September 30, 1943, \$566,823. (Tassin, Exhibit 9, R. 317, 202).

The cumulative loss in the States of Alabama, Kentucky, Tennessee, and North Carolina, by reason of the failure of the authorities of these states to permit the fare of 1.65 cents per mile to be increased to 2.2 cents per mile for the twelve-month period December 1, 1942, through November 30, 1943, amounts to \$2,420,035 (Tassin, Exhibit 10, R. 343, 215).

Rate reductions in these states would have effect on rates in other states (161 I. C. C., at 282, R. 216).